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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,722	02/27/2004	Jay Brent DeShan	85804-014700	9628
<div>76058      7590      01/09/2008 YAHOO! INC. C/O GREENBERG TRAURIG, LLP MET LIFE BUILDING 200 PARK AVENUE NEW YORK, NY 10166</div>				
			<div>EXAMINER LE, MICHAEL</div>	
			<div>ART UNIT 2163</div>	<div>PAPER NUMBER</div>
			<div>MAIL DATE 01/09/2008</div>	<div>DELIVERY MODE PAPER</div>

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

mn

<b>Office Action Summary</b>	<b>Application No.</b> 10/789,722	<b>Applicant(s)</b> DESHAN ET AL.	
	<b>Examiner</b> Michael Le	<b>Art Unit</b> 2163	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.  
4a) Of the above claim(s) 13-15 and 22-24 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-12 and 25-32 is/are allowed.
- 6) ☒ Claim(s) 16-21 is/are rejected.
- 7) ☒ Claim(s) 16-21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 15, 2007 has been entered.

### ***Election/Restrictions***

1. Applicant's election of invention I in the reply filed on November 20, 2007 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Claims designated in invention II are withdrawn from consideration as being directed toward a non-elected invention. Applicant is requested to cancel the claims in view of the allowable subject matter described below.

### ***Summary and Status of Claims***

2. This Office Action is in response to Applicant's reply filed November 20, 2007.
3. Claims 1-32 are pending.
4. Claims 13-15 and 22-24 are withdrawn from consideration for being directed to a non-elected invention.
5. Claims 1-12, 16-21 and 25-32 are prosecuted under the merits below.

6. Claims 1-12 and 25-32 are allowed.
7. Claims 16-21 are rejected under 35 U.S.C. 101.
8. Claims 16-21 are also objected to for containing allowable subject matter.
9. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Claim Rejections - 35 USC § 101***

10. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

11. **Claims 16-21 are rejected under 35 U.S.C. 101** because the claimed invention is directed to non-statutory subject matter.

12. The basis of this rejection is set forth in a test of whether the invention is categorized as a process, machine, manufacture or composition of matter and if the invention produces a useful, concrete and tangible result. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) are found to be non-statutory subject matter. For a method claim to pass muster, the recited process must produce a useful, concrete and tangible result.

13. In the present case, **claims 16-20** recite a computer-readable medium having embodied therein a computer program for executing a method. The method is not performed by the computer program, but is performed by a computer processor executing the computer program. Since the claim does not include language requiring that the computer program be executed by a

computer processor, the claims are deemed nonstatutory because it is functional descriptive material but does not have the steps necessary for the functionality to be realized.

14. **Claim 21** recites a computer program product and is rejected for the same reasons.

15. To expedite a complete examination of the instant application, the claims rejected under 35 U.S.C. 101 (nonstatutory) above are further rejected as set forth below in anticipation of applicant amending these claims to overcome the rejections set forth above.

#### ***Response to Arguments***

##### **Rejection of claims 1-12, 16-21 and 25-32 under 35 U.S.C. 103(a)**

16. Applicant's arguments in regards to the rejections to claims 1-12, 16-21 and 25-32 under 35 U.S.C. 103(a), have been fully considered and are persuasive. Consequently, the rejection to claims 1-12, 16-21 and 25-32 under 35 U.S.C. 103(a) is withdrawn.

#### ***Allowable Subject Matter***

17. **Claims 16-21** are objected to as being rejected under 35 U.S.C. 101, but would be allowable if rewritten or amended to correct the issues described in the rejection above.

18. The following is a statement of reasons for the indication of allowable subject matter:

19. The instant invention is directed to management of digital media and content distribution.

In particular, the instant invention aims to solve the problems of large streaming media distribution such as organization, linking and promoting. In order to do so, the instant invention discloses several novel features. The main novel feature, recited in claims 16 and 21, is a procedure of approving a feed file by applying one or more templates to the feed file. A feed file

is a file that when viewed by a user, links the user to media. By applying a template to the feed file, a content provider can ensure that the feed file contains the correct type of content for a particular feed (e.g., an event). By doing so, the feed files can be managed, preventing corrupted or incorrect feed files from being distributed.

20. The closest prior art fails to disclose this novel feature of the instant invention as will be described below.

21. **Justin et al. (WO 02/057943) of record, hereinafter "Justin,"** discloses a method and system for updating, managing and delivering digital content, including streaming media. Justin at abstract. Although Justin discloses a digital media distribution method and system, Justin fails to disclose the novel feature of applying a template to a feed file (or something similar), like the instant invention.

22. **Tobias et al. (WO 00/48375) of record, hereinafter "Tobias,"** discloses a method and system for media distribution and automated distribution of streaming media. Tobias at abstract. Tobias also discloses that the media received from content providers are from authorized affiliate servers. Tobias at pg. 16, lines 18-20. However, Tobias also fails to disclose applying a template to a feed file to determine whether the feed file is approved. Even though Tobias discloses authorized affiliate servers, the feed files created by users of the system of Tobias are not analyzed for approval like the instant invention.

23. **Justin in combination with Tobias** also fails to disclose the novel feature of the instant invention. Neither Justin nor Tobias suggest applying a template to a feed file, like the instant invention, to determine whether the feed file is authorized or approved.

24. For the reasons above, claims 16-21 contain allowable subject matter.

25. **Claims 1-12 and 25-32** are allowed.

26. The following is an examiner's statement of reasons for allowance:

27. Independent claims 1 and 25 both disclose the novel feature of applying a template to a feed file to determine whether or not its approved. Therefore claims 1-12 and 25-32 are allowed for the reasons set forth above.

28. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### *Conclusion*

29. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Le whose telephone number is 571-272-7970. The examiner can normally be reached on Mon-Thurs : 9:30am-6pm, Fri: 8am-4:30pm.

30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Don Wong can be reached on 571-272-1834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


31. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michael Le  
Art Unit 2163  
January 7, 2008



WILSON LEE  
PRIMARY EXAMINER